

April 9, 2021

By ECF

The Honorable Gregory H. Woods
United States District Court
Southern District of New York
500 Pearl Street, Room 2260
New York, NY 10007

Cardwell v. Davis Polk & Wardwell LLP, et al.
19-cv-10256-GHW (S.D.N.Y.)

Dear Judge Woods:

I write on behalf of Plaintiff in the above-referenced action pursuant to Section 1.E of Your Honor's Individual Rules of Practice to request (i) a two-month extension of all operative case deadlines to account for the pending motion to dismiss ruling and/or Plaintiff's application to file a Third Amended Complaint, or, (ii) in the interim, a modest extension of time to complete fact discovery from April 15 to May 14, with the understanding that other operative case dates may require adjustment once the Court rules on the pending application and motion to dismiss.

This is Plaintiff's third such request (*see* ECF 136). Because request (i) above, if granted, affects other scheduled dates, Plaintiff submits a proposed Revised Civil Case Management Plan and Scheduling Order. *See generally* Appendix A.

There are five principal grounds for Plaintiff's request. *First*, without a full understanding of the claims at issue¹ and Defendants' affirmative defenses, Plaintiff is unable to disclose affirmative experts by the April 15 deadline. Accordingly, Plaintiff requests that this deadline be extended to June 15, or a reasonable period following a ruling on Defendants' partial motion to dismiss and service of Defendants' answer.

Second, Plaintiff noticed seven depositions; all but two of them will occur prior to the April 15 fact discovery deadline. One deposition occurred on April 8, and at least four will occur next week on April 12, 13, 14, and 15. Plaintiff seeks leave to take Mr. Reid's deposition on Friday, April 16 (the date offered by Defendants and accepted by Plaintiff), one day after the April 15 deadline.

Third, Davis Polk is refusing to produce a Rule 30(b)(6) witness on multiple grounds. Because Plaintiff will be deposing witnesses every day next week, from April 12 to April 16 (if the Court grants the request in point two above), Plaintiff will not be able to brief this key dispute via joint submission until the week of April 19. Accordingly, Plaintiff seeks time after the April 15 deadline to brief this dispute with the Court (in the event Davis Polk does not agree to produce a Rule 30(b)(6) witness).

¹ For example, the parties disagree on whether Plaintiff has sufficiently alleged disparate impact claims against Davis Polk. This pending issue impacts both parties' decisions related to expert discovery.

Fourth, the parties have reached impasse on a number of document discovery disputes,² and Plaintiff would benefit from time after the April 15 deadline to serve its portion of a joint brief requesting a pre-motion conference. As with the 30(b)(6) dispute, Plaintiff proposes to provide Defendants with its portion of the joint submission during the week of April 19.

Fifth, Plaintiff seeks a limited amount of time following receipt of the deposition transcripts to serve (i) follow-up correspondence related to deposition testimony,³ documents Defendants are withholding from production, and for the parties to file any joint briefs with the Court in the event impasse is reached, and/or (ii) any letters seeking a pre-motion conference (particularly given the issues that Plaintiff raised with the Court during the April 8 deposition). Because Plaintiff will not receive transcripts immediately after each deposition, Plaintiff proposes that the parties work during the weeks of April 19 and 26 to resolve these issues, or bring them to the Court's attention.

Finally, Defendants have only consented to make Mr. Reid available on April 16, but otherwise object to any extension of the April 15 fact discovery deadline. Plaintiff does not believe the parties will be prejudiced by the instant request; however, Plaintiff would be prejudiced if not permitted to meaningfully complete fact discovery despite the extraordinary lengths Plaintiff is undertaking to single-handedly depose almost a half-dozen individuals all before April 15.

Thank you for the Court's attention to this matter.

Respectfully submitted,

/s/ David Jeffries

David Jeffries

cc (via ECF):

Susanna M. Buerger

Jeh C. Johnson

Bruce Birenboim

² These issues relate to: (i) Defendants' failure to produce relevant documents, and their responses and objections to Plaintiff's RFPs; (ii) deficiencies in Defendants' responses and objections to Plaintiff's interrogatories; and (iii) deficiencies in Defendants' privilege log (and the 762 documents they are withholding from 2017-2018 (i.e., prior to Plaintiff's termination) on the basis of privilege, even though many (a) involve non-lawyers and/or (b) relate to issues (by Defendants' own categorizations) like Plaintiff's performance, staffing, performance reviews, and employment). Plaintiff previewed these issues for Your Honor in a prior extension request (ECF 136).

³ For example, the witness in yesterday's deposition testified that they created a memorialization of their May 23, 2017 meeting with Cardwell in response to Cardwell's May 22, 2017 complaint (which the Court has deemed is legally protected). Plaintiff emailed Defendants today as it appears Defendants have not yet produced this memorialization. Based on a review of Defendants' production to date, Plaintiff believes there will be similar document-related requests following the remaining depositions.

Marissa C.M. Doran

Attorneys for Defendants

Proposed Revised Civil Case Management Plan and Scheduling Order

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Deadline	Current Deadline	Proposed Deadline
Completion of all fact discovery	April 15, 2021	June 15, 2021
Affirmative expert disclosure	April 15, 2021	June 15, 2021
Serving contention interrogatories	April 15, 2021	June 15, 2021
Rebuttal expert disclosure	June 15, 2021	August 16, 2021
Completion of expert discovery	July 15, 2021	September 15, 2021
Motions for summary judgment	August 15, 2021	October 15, 2021
Joint status letter	August 16, 2021	October 2021
Status conference	August 23, 2021 at 4pm	October 2021